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April 3, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *In the Matter of Application of SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan, WC Docket No. 03-16 – Ex Parte Filing*

Dear Ms. Dortch:

At the request of Chairman Powell's office, AT&T Corp. ("AT&T") respectfully submits this ex parte letter and Attachments to summarize the nature and significance of some important differences between the test of SBC's performance reporting as conducted by BearingPoint and that conducted by Ernst & Young ("E&Y"). AT&T also briefly responds herein to some of the new evidence and new arguments raised in SBC's March 28, 2003 75-page ex parte letter and attachments.¹

Notwithstanding SBC's late flurry, the salient facts concerning data integrity remain undisputed. There is no dispute that the scope of E&Y's test is far more circumscribed than BearingPoint's test. SBC's March 28, 2003 ex parte confirms, for example, that E&Y did not even attempt to examine SBC's performance in three of the five areas (PMR1, PMR2, and PMR3) covered by BearingPoint. This is not surprising, because the scope of the E&Y test was determined in meetings attended by only SBC and E&Y, while BearingPoint developed its Master Test Plan after consultation with the Michigan PSC, SBC, and other interested parties.

There is also no dispute that E&Y's methodology differs from BearingPoint's in numerous respects. To cite just three examples, E&Y (i) focused its examination on data from a single three-month time period (March to May 2002) that pre-dated significant SBC systems

¹ Letter from Geoffrey M. Klineberg, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., to Marlene H. Dortch, Secretary, FCC (March 28, 2003) ("SBC March 28 Ex Parte").

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changes, (ii) did not generate its own test orders and then trace SBC's handling of them, and (iii) did not perform regression testing or examine SBC's implementation of other recommended corrections as BearingPoint has done.

The principal dispute is whether, given these and other acknowledged differences in scope and methodology, and given SBC's failure to date to pass most of BearingPoint's test criteria – let alone the 96-100 percent that numerous other BOC applicants have uniformly passed before their 271 applications were granted (*see* Attachment A) – E&Y's test nevertheless proves that SBC's performance reports are complete, accurate, and reliable.

E&Y's test does not provide that proof. As the attached chart (*see* Attachment B) demonstrates in some detail, the differences in scope and methodology between the E&Y and BearingPoint tests are pervasive and significant. The record shows many instances, of which the points in this letter are only a sample, in which the limited scope of E&Y's test precluded it from identifying problems with SBC's performance reporting that BearingPoint has uncovered, and that illustrate that E&Y's failure to find an important problem in a given area does not mean that BearingPoint will not find it. The evidence of ongoing and unresolved performance reporting problems documented by BearingPoint, together with SBC's unique failure, in Michigan and other former Ameritech states, to provide CLECs with ready access to raw data that would allow CLECs and regulators to reconcile SBC's performance data with CLEC data, and with SBC's repeated failure to provide this Commission with accurate, reliable, and complete raw data concerning one key and highly contested area of performance – line loss notices (*see* Attachment C) – foreclose SBC's breezy assertions that this Commission may reasonably rely on E&Y's limited testing to conclude that SBC's performance reporting is complete, accurate and reliable.

The differences between BearingPoint's and E&Y's testing, set forth in Attachment B, include the following:

- By not examining SBC's data collection and storage in any manner comparable to the testing set forth in BearingPoint's PMR1, E&Y's test provides no evidentiary basis for concluding that SBC's practices with respect to data collection and storage are adequate. Unlike BearingPoint, E&Y did not address, let alone discover, SBC's failure to maintain and store data in compliance with regulatory requirements or to develop appropriate documentation for its performance measure processes. E&Y also has not addressed SBC's continued noncompliance in this important area, as shown by BearingPoint's recently opened Exceptions 186, 187, and 188, which relate to SBC's failure to retain data and failure to develop documentation that accurately depicts SBC's performance measure calculation logic, data flows, and data element maps. These exceptions, two of which have recently been supplemented with "version 2" reports indicating even

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more pervasive problems,² have taken on additional significance in light of SBC's recent concessions that it has not developed the data element maps needed to implement the negotiated changes to PM MI 13 and PM MI 13.1.

- By confining its review to SBC's March through May 2002 data only, E&Y's test did not address the impact of changes to critical source systems that affect SBC's ability accurately to report its data. As a result, for example, E&Y was unable to assess whether SBC's decision to change its system of record for EDI/LSOG 5 transaction data has adversely affected the accuracy of its reporting for performance measures involving pre-ordering, ordering, and provisioning. BearingPoint, in contrast, has already identified that SBC erred in implementing its new source system for all pre-ordering transactions, and is continuing to test the impact of the SBC's system changes on the integrity of SBC's data. In addition, BearingPoint has identified numerous errors in key performance measures that would have been material under E&Y's standards, but that occurred outside the narrow time period to which E&Y's review was limited.
- By not performing adequate testing of corrective actions taken by SBC to address identified problems, E&Y's test does not provide a reliable basis for concluding that SBC has fixed the problems that have been identified. For example, after SBC implemented new manual procedures to correct errors in coding trouble tickets, E&Y signed off without ever visiting any field offices to determine if those procedures were implemented correctly. By contrast, in Exception 131, BearingPoint examined the trouble ticket problems and conducted six months of testing involving repeated field visits to determine whether the corrected procedures had been implemented. This matter – which is now the subject of one of SBC's recent Compliance Plans – was left wholly unattended by E&Y.
- By not sending its own test transactions, E&Y failed to generate raw data that it could then track through SBC's systems to determine if SBC accurately gathered and reported that data. Instead, E&Y gathered data samples from SBC's production data files. By contrast, because BearingPoint developed its own test transactions to follow the raw data through SBC's systems, BearingPoint found problems that E&Y overlooked. For example, BearingPoint opened Exception 33 because data in SBC's Customer Service Inquiry records did not match the data as submitted in BearingPoint's test transactions. E&Y did not find – and could not have found – this problem, which (once again) is the subject of another recent SBC Compliance Plan.

² Version 2 of Exceptions 187 and 188 were issued by BearingPoint on April 1, 2003. BearingPoint has indicated that it will issue a Version 2 of Exception 186 early next week.

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In short, the broader scope and more rigorous methodology of BearingPoint's testing have repeatedly uncovered problems that E&Y has not found and could not have found, and that has required SBC to take substantial steps to remedy. SBC has yet to demonstrate that it has fixed all of these problems. Certainly E&Y's limited follow-up testing provides no basis for such a conclusion, and in many cases the remedies are too new to have been proven effective. SBC is now subject to numerous "compliance plans" which have been imposed only late in this application cycle (including revisions to those compliance plans filed with the MPSC on April 2, 2003), and with which SBC has yet to demonstrate compliance. And because BearingPoint has not yet finished its testing, it is unclear whether BearingPoint will uncover new problems that will require additional remedial steps. SBC therefore has not demonstrated that its performance reports are complete, accurate, and reliable.

None of SBC's attempts to explain why the Commission should rely on the limited test that SBC unilaterally obtained from E&Y rather than the test that the Michigan PSC commissioned from BearingPoint has merit. First, SBC's claim that the differences between the E&Y and BearingPoint test are immaterial has no merit. As shown in AT&T's prior submissions, in the illustrative points above, and in Attachment B hereto, the differences in scope and methodology are profound, and have led BearingPoint to examine a range of issues that E&Y never considered, and to uncover numerous problems that E&Y never addressed. For this reason alone, SBC's reliance on E&Y should be rejected.

Second, SBC's attempt to vindicate its reliance on E&Y by pointing to similarities between the E&Y test and tests that were done in Missouri, Texas, and California is equally without merit. SBC March 28 Ex Parte, Att. A at 2-3. As AT&T has previously explained, in none of those states was the Commission presented with another test, let alone one commissioned by the state PSC, that demonstrated significant problems of the nature shown here.

Equally important, however, is that in Missouri, Texas, and California, SBC made its raw data for performance measurements readily available (e.g., via download from a website or via other sources) to CLECs. As a result, CLECs could reconcile SBC's raw data with their own, thus giving CLECs and regulators another point of reference to use in determining whether SBC's self-reported data were accurate.

Here, by contrast, AT&T has demonstrated at length – and SBC has nowhere refuted or denied – that SBC has not made its raw data for the former Ameritech states readily available to CLECs in any comparable way. AT&T has further shown that – when SBC has (after protracted delays) provided raw data for a given performance measure – SBC's data have been riddled with errors. *See, e.g.,* Moore/Connolly/Norris Reply Dec. ¶¶ 129-38. This lack of readily available raw data, together with SBC's failure (overlooked by E&Y) to retain raw data in compliance with regulatory requirements, compounded by the multitude of errors in the raw data SBC has produced, makes the issue of the accuracy of SBC's self-reported performance

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reports far more important in Michigan than it was in the prior SBC states. Absent the ready availability of raw data for reconciliation, SBC's reported data are simply all that regulators and competitors have to go on. SBC's failure to have passed the BearingPoint test is thus a matter of great significance, and an issue that simply was not present in the prior applications to which SBC refers.

SBC's inability to generate accurate raw data is particularly significant given SBC's follies-like miscues in attempting to demonstrate that SBC provides CLECs with timely and accurate line loss notices. If E&Y's test is to be credited, then the Commission and competitors have nothing to worry about regarding the completeness, reliability, and accuracy of SBC's LLN reporting. But as this Commission now knows, the reality is quite different. As previously reported by AT&T (and as summarized in Attachment C hereto), SBC has repeatedly tried, and repeatedly failed, to provide this Commission with an accurate accounting as to its LLN performance. If the issues were not so important to the ability of CLECs to compete effectively with SBC, SBC's performance would be comical. SBC has misstated and miscorrected its data time after time after time, with the only constant being that SBC has consistently understated the poor level of its performance. These defects are all the more inexcusable because SBC's long history of discriminatory LLN performance unquestionably put SBC on notice, going into this application, that it would need to provide the Commission with accurate performance data on LLNs.

Third, SBC's insinuation that BearingPoint is requiring a level of perfection that it is unreasonable to expect SBC to meet has no merit whatsoever. SBC March 28 Ex Parte, Att. A at 9 & n.29. To begin with, SBC ignores the fact that SBC was largely responsible for BearingPoint's retention and *agreed* to the BearingPoint testing in 2000. SBC participated directly in the development of the Master Test Plan and could at any point have sought modifications in the Master Test Plan if it believed, as it apparently does now, that those standards were too strenuous or exacting. Having agreed to the test criteria in the development of the Master Test Plan, SBC should be estopped from arguing that its performance under BearingPoint's test criteria should be ignored in favor of test results from E&Y.

The ability of other RBOCs in Section 271 proceedings to satisfy similar BearingPoint test criteria in reviews of their performance measure data also belies any claim that the test criteria are unreasonably strict. Indeed, the prior applications that matter here – and that SBC studiously avoids mentioning – are the numerous ones where the applicant BOC had passed between 96 and 100 percent of BearingPoint's test criteria (see Attachment A). The success of these many prior applicants to pass all of BearingPoint's test criteria demonstrates that the problems lie not with BearingPoint, but with SBC's performance measurement processes and systems.

SBC's claim to have fully implemented its obligation to provide complete, accurate, and reliable performance reporting is belied by the Consent Decree that SBC recently entered with this Commission. This Consent Decree brought to a close the Commission's

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investigation of SBC's "performance reporting errors" in connection with its monthly reporting obligations with respect to "key aspects" of its provision of access to unbundled network elements (including OSS), interconnection, and resold services.³ In that Consent Decree, the Commission's Bureau of Enforcement stated its view that – during the period extending from January 2002 through *February 2003* – "SBC has not taken sufficient measures to minimize discrepancies in its reported data."⁴ As a result, in addition to paying a \$250,000 voluntary penalty, SBC committed to implement numerous "enhancements to the controls and processes for managing the integrity of the data it reports monthly to the FCC," including taking numerous steps that mirror improvements needed to overcome weaknesses identified by BearingPoint.⁵

Fourth, SBC's effort to document the extent of E&Y's test serves, in fact, only to confirm E&Y's limitations. Exhibits 2 and 3 to SBC's Attachment A of the March 28 Ex Parte starkly reveal some important limitations to the E&Y test. These exhibits purport to compare the findings by BearingPoint and E&Y on the "Not Satisfied" test criteria in PMR4 and PMR5. However, there are numerous test criteria for which SBC states that it is "[u]nable to determine if [that criterion] is included in the E&Y report at this time." If SBC, which developed with E&Y the procedures for E&Y to follow, is not able to determine if an issue is covered by E&Y's report, then it necessarily follows that this Commission lacks record evidence to support any conclusion that E&Y addressed these issues, and must assume E&Y did not cover those test criteria.

Finally, SBC's reliance on E&Y's workpapers for much of SBC's assertions about what E&Y did or found is manifestly improper and should be given no weight by this Commission. Neither SBC nor E&Y has made these workpapers generally available to the parties, let alone submitted these workpapers to the Commission as part of SBC's application or at any time thereafter for inclusion in the record of this proceeding. AT&T was briefly allowed access (for one and ½ days) last fall to review (but not copy) the workpapers, and SBC's decision to make the workpapers available in a Wisconsin proceeding on March 11, 2003, is of no moment here, because the disclosure in Wisconsin is subject to a confidentiality order that precludes use of the workpapers in any other proceeding. It is hornbook administrative law that SBC cannot rely on evidence that is not in the record in this proceeding. SBC's attempt to rely on E&Y's workpapers is thus an invitation for this Commission to commit reversible error that the Commission should categorically reject.

Indeed, the differences between BearingPoint and E&Y in this regard are yet a further reason why SBC has matters exactly backwards in arguing that this Commission should

³ See *In the Matter of SBC Communications, Inc.*, EB-02-IH-0382, Consent Decree ¶¶ 3, 6, 9(g) (released March 20, 2003).

⁴ *Id.* ¶ 7.

⁵ See *id.* (outlining requirements of compliance plan).

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give weight to the E&Y rather than to the BearingPoint test. BearingPoint's testing has been open and available for public review and analysis, and BearingPoint's findings are available on the internet. As a result, any party can monitor the work that BearingPoint has performed and determine the steps taken and assumptions made by BearingPoint in carrying out its testing. By contrast, E&Y's workplan was developed privately with SBC, E&Y's work has been conducted privately and confidentially, and E&Y's documentation remains confidential to SBC and E&Y. There is no reason why a public agency should defer to the results of a limited, private, and proprietary test rather than a comprehensive public test.

The secretive nature of the E&Y work, together with the limited time available to AT&T at this late stage of this 271 proceeding to respond to the new charts, documentation, and analysis that SBC has submitted long past the time when, under this Commission's complete-when-filed rule, such evidence could be reasonably be given weight, are mutually reinforcing reasons why this Commission should disregard SBC's tardy submission and confirm that SBC has failed to demonstrate that it is providing its competitors and regulators with complete, timely, accurate, and reliable performance reports.

But whether the record is considered as of the time of the application, or whether it is considered as of the eve of the Commission's decision, the result is the same. The reality is that SBC remains far behind where other applicants have been in satisfying the BearingPoint performance measure test criteria. BearingPoint is still testing SBC's ability to satisfy numerous significant test criteria, and E&Y's limited proprietary test is no surrogate for satisfactory completion of the BearingPoint test. SBC's data integrity problems are of its own making, for it is SBC that chose to file this application before it had satisfied the BearingPoint test, before it had developed systems to make its raw data readily available to CLECs, and before it had developed the capability even to report its performance accurately on the most highly contested aspects of its performance, such as LLNs. To approve SBC's application at this time, when SBC has yet to demonstrate that its performance reporting is accurate, and when those reports cannot validly be relied upon to prohibit backsliding, would conflict with the requirements Congress set

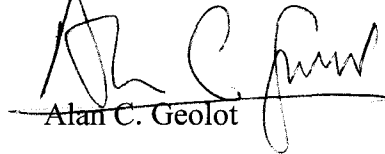
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forth for approval of a BOC's section 271 application. This Commission should not reward SBC for its premature application. For these reasons, as well as others that AT&T has set forth, SBC's Michigan 271 application should be denied.

Yours sincerely,


Alan C. Geolot

cc: Christopher Libertelli
Matthew Brill
Dan Gonzalez
Jessica Rosenworcel
Lisa Zaina
John Stanley
Gina Spade
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Attachment A

HOW SBC'S TEST RESULTS COMPARE TO THOSE OF PRIOR BOC 271 APPLICANTS

Prior Comparable BearingPoint Audits
(Five PMR Test Segments)

Percent of Test Criteria Satisfied*

| | |
|--------------------------------|--------|
| Michigan (as of March 7, 2003) | 27.5 |
| Georgia Audit I | 99 |
| Georgia Audit II ** | 100 |
| New Jersey | 100 |
| Pennsylvania | 96-100 |
| Virginia | 100 |

* See Joint Reply Declaration of Karen W. Moore, Timothy M. Connolly, and Sharon E. Norris ¶¶ 77-100.

** See *id.* at ¶¶ 79-87 (explaining that both Georgia Audits I and II were complete by the time of the Georgia application, and that a third Georgia audit was in progress).

Attachment B

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|-----------------|--|--|---|
| Audit Plan | SBC supported and agreed to testing by BearingPoint ("BP") conducted under the auspices of the Michigan PSC ("MPSC"). The Master Test Plan was developed with SBC concurrence and industry input and subject to MPSC approval. | E&Y was hired by SBC without MPSC approval. E&Y performed procedures agreed upon solely by SBC and E&Y without industry involvement. | SBC agreed to hiring of BP to conduct testing that was similar to BP testing in other jurisdictions. Master Test Plan incorporates many of the same elements that were tested in other jurisdictions. In those tests in other jurisdictions, other RBOCs passed 96-100% of test criteria. E&Y's testing reflects SBC's interests and not public interest. |
| Period of Audit | Replication testing first focused on April 2001 data but could not be conducted then due to deficiencies in SBC's performance measure system practices and procedures; SBC then suggested October 2001 data but the testing could not be conducted then due to continuing problems with the soundness of SBC's data; SBC then selected January-March 2002 data, but BP could not replicate SBC's data during that period, and BP was forced to abandon that approach. BP is currently evaluating July-September 2002 data. | E&Y testing reviewed March-May 2002 data only. E&Y findings are expressly limited to test time period. While verification of corrective action may include examination of data from other months, scope of corrective action is limited (<u>see infra</u>). | E&Y testing did not examine the effect of changes to critical PM source systems. For example, since E&Y conducted its test, SBC has changed a major system of record by making ICS/DSS its system of record for EDI/LSOG 5 based transaction data. This change affected many PMs, including pre-ordering, ordering, and provisioning measures. BP, however, has already found that ICS/DSS was incorrectly implemented for all of the pre-ordering measures, and is continuing to conduct PMR testing to assess the integrity of SBC's data. This review will incorporate monitoring other changes to systems of records and will continue review of SBC's move to ICS/DSS. E&Y test excluded consideration of out-of-time period findings. E&Y identified discrepancies for the following PMs that would have been "material" but for the fact that they fell outside of the review period: <ul style="list-style-type: none">PM4 (OSS interface availability errors caused understatement of August data). |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|--|---|---|--|
| Period of Audit (cont'd) | | | <ul style="list-style-type: none"> PM6 (Average time to return FOC) (errors caused reported time to be understated for September). PM9 (Percent rejects) (error caused September data to reflect a shorter interval). PM10.3 (percent manual rejects received manually and returned within 5 hours) (error caused September data to reflect a shorter interval). |
| Type of Audit | Comprehensive examination of the SBC PM system, including processes, procedures, operations, data collection, data retention, calculation, reporting, and the review of restatement calculations. Using SBC's published business rules, BP attempts to "replicate" SBC's performance measurement results, as a check on the accuracy of the PMR system. | Compliance testing designed solely to determine the extent to which SBC complies with the business rules that are defined for the PMs. E&Y does not attempt to replicate results, but merely determines whether SBC correctly calculated the numerator and denominator of the PM. | SBC claims that E&Y conducted "end-to-end" testing but as shown below that is demonstrably untrue. E&Y's failure to perform comprehensive testing prevents it from gaining an understanding of faults that exist in the PM systems that impact the reliability of results. As the BP findings have shown, incidences of failure to satisfy PMR1 test criteria (collecting & storing data) almost always lead to incidences of failure to satisfy PMR4 (data integrity) and PMR5 (accuracy of results) test criteria. |
| Data Collection, Retention and Storage | <p>BP undertook comprehensive examination of these functions.</p> <p>As of the March 7 BP update, SBC failed 72 out of 126 test criteria (and remaining criteria were deemed indeterminate).</p> | E&Y undertook no examination of these functions. | <p>BP recently opened Exception 186, which finds that SBC did not, for numerous PMs, retain data in accordance with Michigan regulatory requirements. As noted, E&Y did not conduct testing in this area. Even if it had conducted such testing, E&Y's testing would not have uncovered any of the deficiencies revealed by the Bearing Point test.</p> <p>E.g., as E&Y limited its review to March-May data, <i>any</i> failures by SBC to retain data in <i>any other month</i> would not have been detected by E&Y.</p> |
| Data Calculation and Reporting | BP tested whether the metrics data processing procedures included adequate controls to ensure accurate metrics calculation and reporting | E&Y did not undertake this review. | In Exception 20, BP found that SBC continuously restates results as a normal course of business, and that the inadequacies of SBC's controls, documentation and procedures result in the need for frequent restatements. |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|--|--|------------------------------------|---|
| Data Calculation and Reporting (cont'd) | | | <p>E&Y did not try to identify the root cause of SBC's many data restatements.</p> <p>While Exception 20 is now closed, other more recent Exceptions have replaced it (186-188) (discussed herein). Significantly, between May and December 2002, SBC made <i>1816 restatements to 1063 measures</i>. BP is continuing to test SBC's data gathering and reporting systems in order to determine root cause and correct the problems that led to this instability.</p> |
| Review of Technical Documentation - Metrics Calculations | BP examined SBC's technical documentation to determine whether it adequately contains the calculation logic for its performance results. | E&Y did not undertake this review. | <p>Inaccurate calculation logic causes inconsistent and inaccurate PM reporting.</p> <p>BP recently opened Exception 187, which found that the documentation that contains SBC's calculation logic is inaccurate or incomplete. Currently, <i>47 of the 149 performance measures</i>, including PM5 (FOC timeliness), PM6 (average time to return FOCs), PM8 (average time to return mechanized completions), PM9 (percent rejects), PM13 (flow through), and many others have failed this PMR1 test. None of the pre-ordering, ordering, or repair PMs have passed this test, and only 3 of the 29 provisioning PMs have been successfully tested.</p> <p>Thus, BP found that none of the PMs that are calculated using this inaccurate documentation can be assured to be accurate.</p> <p>E&Y's audit, however, was too limited in scope to uncover this defect.</p> |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|--|--|---|---|
| Review of Technical Documentation - Data Flow Diagrams (DFDs) and Data Element Maps (DEMs) | BP undertook a review of SBC's documentation to determine whether SBC's DFDs (which document data flows from source systems to the PM reporting system) and DEMs (which document data transformations from source systems to the PM reporting system at the field level) are accurate. | E&Y did not undertake this review. | <p>In Exception 188, BP found that the DFDs and DEMs are inaccurate or incomplete for a number of PMs, including billing metrics (PMs 14, 19), 911 (PMs 104.1, MI6), pre-ordering (PM 4), LNP (PMs 91, 92, 93, 95, 99) and many others. Currently, only 29% of the PMs have been adequately documented, and 55 (36%) are failing this test.</p> <p>Inaccurate mapping causes inconsistent and inaccurate PM reporting.</p> <p>E&Y's testing, however, was too limited in scope to uncover this defect.</p> <p>SBC recently admitted that its DEMs and DFDs for the new PM MI13 and MI 13.1 (line loss notifications) have not yet been prepared, so it is impossible to determine whether the new metric will, in fact, include SBC winbacks (as claimed by SBC). E&Y's testing would never have uncovered such a flaw.</p> |
| Data Review (General) | BP's data review was more rigorous than E&Y's (e.g., BP tested "chain of custody" for raw data completely through SBC's systems, tested SBC's calculations, and incorporated test CLEC transactions to perform testing). | E&Y's data review was less rigorous than BP's. E&Y did not examine chain of custody for data records and did not use CLEC transactions to perform testing. E&Y could not validate the accuracy of the data being examined, and therefore, could not provide an analysis regarding whether the data had been manipulated or modified after being input into the source system. | <p>The E&Y analysis does not actually examine the accuracy of data itself; it only attempts to validate the sources of system data that are identified in E&Y's transaction testing report.</p> <p>For example, under the PMR4 analysis of PM 5 (timeliness of FOCs), BP used test CLEC transaction data to validate, among other things, whether FOC date/time sent data were found and were accurate in the system of record and PMR systems.</p> <p>In contrast, E&Y's only performed transaction testing to determine that the correct number of FOC with a</p> |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|--|---|--|---|
| Data Review (General) (cont'd) | | | <p>date/time sent entry exist in the PM database examined, and whether these data then are applied to the numerator and denominator for each PM according to the disaggregation requirements. E&Y did not determine whether the FOC date/time sent data were accurate in either the system of record or the PM systems.</p> <p>Indeed, because it took samples from actual transactions and not test transaction data, E&Y would not have a means against which to validate accuracy.</p> <p>As a result of its approach, BP uncovered a number of significant errors in the course of its testing that E&Y missed. BP reported 74 separate Observations of business rule calculation errors that were not reported by E&Y.</p> |
| Data Review (Application of Materiality Standard) | BP examined (and continues to examine) all data discrepancies based on standards <i>agreed to</i> by SBC in the Master Test Plan. | E&Y applies artificial materiality standard to each inaccuracy found (i.e. the inaccuracy is not considered to be material unless it caused the result to swing by more than 5% or caused the results to change from a pass to a failure or vice versa.) | <p>Artificial materiality standard ignores several key effects of incorrect data:</p> <ol style="list-style-type: none"> 1. Even if a result would not meet the materiality standard, it may affect penalty payments (E.g., consider a PM with a 95% benchmark where the original reported result was 93% and restated result was 89%. Such a difference, while not "material" under E&Y's standard, could affect penalty payments.) 2. E&Y's artificial materiality standard considered only individual errors but did not take account of multiple errors relating to a PM that taken together would be material. 3. PMs already contain allowance factor for errors. "Materiality" standard artificially adds to these factors, creating overly broad "margin for error". |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|--|--|---|--|
| Data Review (Application of Materiality Standard) (cont'd) | | | <p>BP continues to find data discrepancies that would be "material" under the E&Y standard.</p> <ul style="list-style-type: none"> • E.g., Observation 823 finds that the July and August denominators for PM10 (% of mechanized rejects within 1 hour) and PM11 (MTTR for mechanized rejects) were off by 2000+ rejects. The denominator for both measures should be the same. • Observation 818 finds material discrepancies between the numerator ("ND") and the denominator ("DD") in several months as follows: July (ND: 91%; DD: 29%); August (ND: 54%; DD: 6%); and September (ND: 63%; DD: 6%), all of which exceed the E&Y materiality standard. • Observation 817 finds that BP's September results for PM 73 (percentage missed due dates – interconnection trunks) differ from SBC's results by 6.25%. |
| Data Review (Business Rules) | BP examined whether SBC implemented the business rules for each PM accurately. | E&Y's failure to perform comprehensive testing prevents it from gaining an understanding or awareness of faults that exist in the PMR systems that impact the reliability of results. As the BP findings have shown, incidences of failure to satisfy "PMR1" test criteria (collecting & storing data) almost always lead to incidences of failure to satisfy PMR4 (data integrity) and PMR5 (accuracy of results) test criteria. E&Y also did not require corrective action where it observed business rule implementation errors outside of the March-May period. | <p>BP opened 82 observations related to improper business rule implementation for periods subsequent to May 2002. In some cases, BP observed multiple instances where there was a failure to replicate a PM due to SBC's improper business rule implementation. (These observations were accompanied by other observations disclosing other errors in replication.)</p> <p>The history relating to BP's efforts to replicate PM 13 ("Order Process Percent Flow Through") and PM 13.1 ("Total Order Process Percent Flow Through") illustrates this point:</p> <ul style="list-style-type: none"> • Observation 299 (issued 4/3/02): BP could not replicate Measurement PM13.1 due to numerator and denominator discrepancies. • Observation 317 (issued 4/8/02): BP could not replicate due to a discrepancy in |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|---|--------------|---------------|---|
| Data Review (Business Rules) (cont'd) | | | <p>numerator/denominator (October 2001 data month).</p> <ul style="list-style-type: none"> • Observation 488 (issued 6/3/02): SBC failed to follow published business rules (January 2002 data month). • Observation 591 (issued 8/6/02) LNP disaggregation cannot be replicated due to numerator and denominator differences. • Observation 661 (issued 9/23/03): SBC improperly applied business rule exclusions in calculation of PM 13.1 (Jan., Feb., March 2002 data months). • Observation 669 (issued 10/3/02): BP could not replicate due to discrepancy in numerator/denominator (Jan. 2002 data month). • Observation 746 (issued 12/12/02): SBC improperly applied business rule exclusions in calculation of PM 13 (July, Aug., Sept. 2002 data months). • Observation 787 (issued 1/26/03): SBC incorrectly excluded orders with specific class codes. |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|---|---|---|---|
| Data Review (Examination of Raw Data – Review through systems into Reported Results) | BP generated its own transactions so that it could follow the path of SBC's raw data through SBC's systems to ensure the reliability of SBC's reported results. | E&Y did not generate its own transactions but rather relied on samples of data obtained from production data files. | <p>E&Y's failure to track raw data through SBC's systems means that it cannot ensure the accuracy and reliability of SBC's reported data.</p> <p>E.g., under Observation 826 (opened April 1, 2003), BP found, by comparing transactions generated by the BP test CLEC and the data stored in SBC's systems, an SBC internal table (the Install Hicap table) for July erroneously included 50 of 144 (34.7%) test CLEC orders that were not actually completed in July. According to BP, the discrepancy in this table could affect up to 25 provisioning, interconnection trunk, LNP and other measures.</p> <p>E.g., under Exception 33, BP found that SBC failed to accurately update the Customer Service Inquiry ("CSI") records. BP made this finding by comparing the Customer Service Record ("CSR") extract returned by a Customer Service Inquiry with field inputs from submitted test CLEC orders.</p> <p>BP's finding led SBC to file a CSI Accuracy Plan with the MPSC.</p> <p>Because E&Y did not generate its own test orders, it could not have made the same discoveries.</p> |

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|---|--|---|--|
| Data Review (Examination of Raw Data – Review at Point of Entry) | BP examined raw data at the point of entry into, and tracked data all the way through, SBC's systems. | E&Y examined SBC data only after it had been translated from EDI into SBC internal systems language. | E&Y would not have detected the lost order problems in New York (where orders were lost in the EDI translator before being handed off to a Verizon legacy system).* |
| Completion of Audit | <p>BP is conducting military style testing which employs a "test until pass" philosophy. To date, SBC's score is:</p> <ul style="list-style-type: none"> • Satisfied 83 (28%) • Not satisfied 93 (31%) • Indeterminate 94 (31%) • Not Applicable <u>32</u> (11%) <p style="text-align: right;">302</p> <p>In BP's PMR5 testing, SBC has satisfied only 7 PMs, with 142 PMs Not Satisfied or Indeterminate.</p> <p>CLECs and staff have input into proposed corrective action that SBC identifies to close out Exceptions and Observations.</p> | While initially finding 130 material failures, E&Y performed only limited re-testing of corrective action (<i>see infra</i>). | <p>Results of BP testing involving other RBOCs demonstrate SBC's poor PM performance:</p> <p style="margin-left: 40px;">BellSouth -- Georgia Audit I 99%</p> <p style="margin-left: 40px;">BellSouth -- Georgia Audit II 100%</p> <p style="margin-left: 40px;">Verizon -- New Jersey 100%</p> <p style="margin-left: 40px;">Verizon -- Pennsylvania 96-100%</p> <p style="margin-left: 40px;">Verizon -- Virginia 100%</p> <p>E&Y's restricted corrective action examination is not military style; E&Y examines only whether the specific condition identified in the Exception report has been corrected. E&Y does not attempt to replicate the PM result. The ongoing BP testing, and outstanding Exceptions and Observations, places the reliability of E&Y's conclusions in doubt.</p> |

* SBC's latest claim (March 28 Ex Parte at Attachment A, p.4) that E&Y's audit controls examination included the EDI translation is pure obfuscation. The audit control examination merely looks at whether there is written program code in place to implement audit controls. It is the transaction testing that would determine whether the audit controls were implemented in such a way to ensure that transactions consistently came out of the EDI translator with the same order entries, directory listings and USOCs that were input by the CLEC. SBC admits that E&Y did not perform such testing.

Ways in Which the BearingPoint PMR and Ernst & Young Tests Differ

| Item | BearingPoint | Ernst & Young | Significance |
|---|--|--|---|
| Scope of Analysis of Corrective Action (Follow Up Testing) | BP analyzed whether corrective procedures were put in place, including site visits to field offices where necessary. BP continues to attempt replication (i.e., full recalculation) of each PM until it is successful. | E&Y limited its analysis to the implementation of programmed corrective actions by SBC, and extremely limited review of manual processing improvements. In fact, it made only one site visit – to a billing office – to determine whether corrective actions to manual processes had been implemented. | <p>E&Y's failure to conduct sufficient testing to determine whether corrective action was implemented renders its determinations regarding such corrective action meaningless.</p> <p>E.g., E&Y required SBC to implement new manual procedures to correct errors in its coding of trouble tickets. But E&Y never visited any field office to determine whether such procedures were actually implemented.</p> <p>BP's Exception 131 found that SBC had incorrectly coded trouble tickets and needed 6 months of retesting involving repeated field tests to determine whether the correct procedures were being used by SBC technicians. This process problem is the subject of one of SBC's Compliance Plans.</p> |
| Scope of Analysis of Corrective Action (Regression Testing) | BP has been performing regression testing on corrective action that SBC has implemented in order to determine whether corrective fixes had other, unintended consequences. | E&Y did not undertake regression testing of corrective action. | <p>E&Y testing will not uncover unintended consequences of SBC's corrective systems fixes.</p> <p>After several attempts at replication testing, BP has been unable to replicate results <i>for 63 measures</i>. BP's regression testing (after SBC's first attempt to correct a defect) uncovered instances in which the PM failed for a reason other than that originally identified by BP – thus, an indication that corrective action had unintended consequences. E&Y testing could not have uncovered these defects.</p> |
| Documentation of Closures | OSS Testing.com web site contains E & O history, status reports, supplemental information requested and provided by SBC to resolve the Exception/Observation. | Confidential E&Y workpapers are not publicly available. CLECs were only allowed to review (not copy) workpapers at E&Y offices for 1½ days in October 2002. | Limited access to workpapers and supporting documents significantly inhibit CLECs' ability to determine the scope of E&Y findings, the full extent of PM failures, and the scope of corrective action. |

Attachment C

Examples From This Proceeding Of
SBC's Failure To Provide Complete, Accurate, and Reliable Data
and Descriptions of Line Loss Errors

- SBC initially reported that “missing or incorrect” LLNs represent only 1.9% of total LLNs. Cottrell/Lawson Reply Aff. ¶ 96. After much prodding, SBC eventually filed data – misleadingly formatted – showing that late and inaccurate LLNs represent 9.9% of the total. Letter from R. Merinda Wilson, Sidley Austin Brown & Wood LLP, to Marlene H. Dortch, Secretary, FCC (March 26, 2003), at 5 (“AT&T March 26 Ex Parte”).
- SBC originally reported (Cottrell/Lawson Reply Aff. ¶ 96) that the LLN problems during the period August 2002 and January 2003 affected only AT&T, WorldCom and Z-Tel and involved only 13,250 LLNs. In a later attempt to explain away its low September 2002 LLN timeliness rate, however, SBC asserted that its September LLN results *alone* were adversely affected by a single incident that involved over 20,000 LLNs. See Letter from Geoffrey M. Klineberg, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., to Marlene H. Dortch, Secretary, FCC (March 20, 2003), Att. at 2 n.4 (“SBC March 20 Ex Parte”).
- SBC admits that it initially provided the wrong results for PM MI 13 in Table 2 of its ex parte filing on March 14, 2003. See Letter from Geoffrey M. Klineberg, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., to Marlene H. Dortch, Secretary, FCC (March 17, 2003), Att. B (correcting Table 2) (“SBC March 17 Ex Parte”).
- SBC admits that while it initially stated that Table 1 (of its March 14 ex parte) does not include the number of LLNs provided to its retail units, including ASI (March 14 Ex Parte, Att. A at 6), “upon further review” SBC determined that Table 1 *does include* the ASI LLNs. SBC March 20 Ex Parte, Att. at 3 & n.8.
- SBC admits that, as the result of a “programming error,” the raw data it provided to AT&T on PM MI 13 erroneously contained some LLNs for which AT&T was the winning, rather than the losing, carrier. Thus, its raw data were not accurate. See Letter from Geoffrey M. Klineberg, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., to Marlene H. Dortch, Secretary, FCC (March 28, 2003), Att. C at 5 (“SBC March 28 Ex Parte”).
- SBC admits that its raw data erroneously listed “Wallace” as the winning carrier for some of AT&T’s customers. SBC now explains that Wallace is actually SBC retail and chalks this mistake up to a programming error as well. *Id.* at 5 n.19.
- SBC states that AT&T’s receipt of data for AADS and Covad was in error because those carriers were the losing, not the winning, carriers. But SBC does not explain why AT&T would be any more likely to win a customer from these data carriers than it would be to lose a customer to such carriers. *Id.*

- SBC initially indicated that the difference in the denominators between Tables 1 and 2 were attributable to the fact that Table 1 included manual LLNs, but Table 2 did not. *See* Letter from Geoffrey M. Klineberg, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., to Marlene H. Dortch, Secretary, FCC (March 14, 2003), at 5 & n.6, 9-10. SBC now asserts that, “by oversight,” manual LLNs were not included in the denominator for Table 1. *See* SBC March 28 Ex Parte, Att. C, at 6. SBC’s latest admission that the Table 1 denominator inadvertently excluded manual LLNs leaves the difference between the denominators in SBC’s Tables 1 & 2 unexplained.

VERIFICATION PAGE

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on April 3, 2003

/s/ Timothy M. Connolly
Timothy M. Connolly